

REMARKS

The status of the application is as follows.

Original Claims 1-23 were presented for prosecution.

Original Claims 9-23 were withdrawn from consideration as being non-elected.

Claims 1-8 presently remain pending for consideration by the Examiner.

Claims 1-8 are amended herein.

No claims have been amended prior to the present office action response.

The Examiner rejected Claims 1-3, 5-7 under 35 U.S.C. § 101 as encompassing a human, thereby being directed to non-statutory subject matter.

The Examiner rejected Claims 1-3, 5-7 under 35 U. S. C. § 112, first paragraph, because the specification, while being enabling for non-human mammals having a gastrointestinal system, wherein surgery reduced the volume and digestive area of the gastrointestinal tract and results in permanent reduction of preoperative weight, does not reasonably provide enablement for non-mammalian animals, any transgenic, genetically-modified, or cloned animals having a gastrointestinal system, wherein surgery reduced the volume and digestive area of the gastrointestinal tract and results in permanent reduction of preoperative weight.

The Examiner rejected Claims 1-8 under 35 U.S.C. § 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner rejected Claims 1, 2, 4, 5, 7, 8 under 35 U.S.C. § 102(a) as being anticipated by Xu, et al., 2002, Journal of Surgical Research, 107: 56-63 (hereinafter "Xu, et al.").

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The Examiner rejected Claims 1, 2, 4, 5, 7, 8 under 35 U.S.C. § 102(b) as being anticipated by Young et al., 1984, The American Journal of Clinical Nutrition, 40: 293-302 (hereinafter “Young et al.”).

The Examiner rejected Claims 1-3, 5, 7 under 35 U. S. C. § 103(a) as being unpatentable over Benedetti, et al., 2000, Journal of the American College of Nutrition, 191: 270-274, (hereinafter “Benedetti, et al.”), in view of Inui, 2000, Pharmacological Review, 52: 35-61, (hereinafter “Inui”).

Applicant respectfully traverses the Examiner’s 35 U.S.C. § 112 first paragraph, 35 U.S.C. § 112 second paragraph, 35 U.S.C. § 102(a), 35 U.S.C. 102(b) and 35 U.S.C. § 103(a) rejections and requests reconsideration in light of the remarks that follow.

REMARKS RESPONSIVE TO 35 U.S.C. § 101 REJECTIONS:

The Examiner rejected Claims 1-3, 5-7 under as encompassing a human, thereby being directed to non-statutory subject matter. Claims 1-3, 5-7 have been amended herein to explicitly disclaim human subject matter and are therefore allowable because of the insertion by amendment herein of the limiting adjective “nonhuman mammalian” before the word “animal,” wherever it appears in the foregoing claims.

REMARKS RESPONSIVE TO 35 U.S.C. § 112 FIRST PARAGRAPH REJECTION

With respect to the Examiner’s allegation that the specification “does not reasonably provide enablement for non-mammalian animals” [Office Action: Page 3; 1st Paragraph], the Claims have been amended to limit their scope to nonhuman mammalian animals.

The Examiner acknowledges that “the specification ... is ... enabling for non-human mammals having a gastrointestinal system, wherein surgery reduced the volume and digestive area of the gastrointestinal tract and results in permanent reduction of preoperative weight.”

[Office Action: Page 3; 1st Paragraph (emphasis supplied)]

Nevertheless, the Examiner contends that that “[t]he specification, as filed, does not teach a skilled artisan how to select candidate non-human mammals in which to perform weight reduction surgery.” [Office Action: Page 8; 1st Partial Paragraph (emphasis supplied)]

Moreover, noting that “[w]ith regards to enablement of survival [of] surgery for [nonhuman] mammals that undergo gastrointestinal surgery, the art teaches survival surgery on rats and humans,” [Office Action: Page 4; 2nd Whole Paragraph (emphasis supplied)] the Examiner contends that “[a] skilled artisan would need to be taught what was performed on any animal, in order to be enabled for the full scope of any animal. It is unclear what steps would need to be taken for anesthesia, what steps were performed during the surgery and what steps a skilled artisan would need to carry out to ensure survival of the animal. These parameters would have to be empirically determined.” [Office Action: Pages 4-5; Bridging Paragraph (emphasis supplied)]

The Surgical Steps are Enabled

As to the Examiner’s contention that “[a] skilled artisan would need to be taught what was performed on any animal, in order to be enabled for the full scope of any animal,” [Office Action: Pages 4-5; Bridging Paragraph] Applicant respectfully submits that at Page 16 of the Application, beginning at line 6, the detailed description of the invention states that:

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“[O]ther surgical steps and end-results of other surgical modifications of the gastrointestinal tract listed hereinabove are well known in the surgical arts.”

Applicant herein is not claiming the operative surgical steps per se, but the application of surgical methods known in the prior art, but heretofore never applied to an animal to convert that animal into a useful animal model for the study of obesity, as claimed by the Applicant. Accordingly, Applicant respectfully submits that the surgical steps are enabled.

Surgical Candidate Selection is Enabled

As to the Examiner’s contention that “[t]he specification, as filed, does not teach a skilled artisan how to select candidate non-human mammals in which to perform weight reduction surgery,” [Office Action: Page 8; 1st Partial Paragraph] Applicant respectfully submits that at page 8, beginning at line 16 of the Application, the specification teaches that:

“The model uses an animal having a [i] pre-surgical weight, a [ii] presurgical output of ghrelin ..., and a [iii] pre-surgical substantially normal gastrointestinal tract”

These are specific enabling criteria for selecting an animal as a candidate for surgical modification of its gastrointestinal tract. Accordingly, Applicant respectfully submits that the surgical candidate selection criteria are enabled.

Enablement of Surgical Survival

As to the Examiner’s contention that “[i]t is unclear what steps would need to be what steps a skilled artisan would need to carry out to ensure survival of the animal,” [Office Action: Page 5]

Applicant respectfully submits that from the standpoint of an artisan engaged in laboratory experiments directed to studying obesity using the animal model disclosed and claimed herein, the only experimental requirement is that *some* of the animals survive the surgery. While a 90% survival rate is arguably preferable to a 50% survival rate, the utility of the animal model disclosed and claimed herein is predicated on studying the effects of the surgical modification on the postoperative animals, *independently* of the number that have survived the surgery.

Nevertheless, with respect to enabling the survival of the claimed nonhuman animals upon which surgery is performed, the Examiner further contends that “[o]ne consideration is the state of the health of the animal prior to surgery. The focus of the application is on obese animals. Thus, a skilled artisan would need to consider what additional health risks obese animals would have to overcome in order to survive surgery.” Citing a review by Pasulka et al. (1986, *Annals of Internal Medicine*, 104- 540-546), the Examiner states that “there are several issues taken into consideration when obese human patients undergo surgery. These include pulmonary issues (Pasulka, et al , page 541-542), circulatory issues (Pasulka, et al., page 542-543), thromboembolic disease (Pasulka, et al., page 543), and wound complications (Pasulka, et al., page 543. [Office Action: Page 5 (emphasis supplied)]

As indicated hereinabove, the application makes no claims regarding the survival of the nonhuman mammalian animal following surgery. Rather, the application teaches and claims only those nonhuman mammalian animals that do indeed survive the surgery. Clearly pulmonary, cardiovascular and other organ systems clinical workups are neither indicated nor practical in an experimental laboratory setting using animals that are, for example, ordered from Serial No. 10/802,996

a laboratory supply vendor. Still, the Examiner contends that “[a]t least for humans, life style habits such as diet and smoking can also be factors taken into consideration as risk factors for survival (Pasulka, et al., page 545, see Conclusions).”).” [Office Action: Page 5]. As the Examiner has properly insisted that Applicant’s claims must disclaim a human animal from their scope, Applicant respectfully submits that the Examiner cannot simultaneously predicate a nonenablement rejection on the absence in the Application of human factors that influence human survival after bariatric surgery.

The Examiner also contended that the Application does not reasonably provide enablement for “any transgenic, genetically-modified, or cloned [non-human mammalian] animals having a gastrointestinal system, wherein surgery reduced the volume and digestive area of the gastrointestinal tract and results in permanent reduction of preoperative weight.” [Office Action: Page 3; 1st Paragraph] The Examiner reasoned that the Application did not teach the *creation* of specific transgenic, genetically-modified, or cloned non-human mammalian animals.

Applicant respectfully believes that Examiner has misunderstood the import and scope of Applicant’s claims, and consequently has underestimated the adequacy of the enablement supporting Applicant’s claims. Specifically, the Applicant does not claim a transgenic, cloned or genetically modified nonhuman animal as an apparatus or device. Rather, Applicant only claims extant transgenic, cloned or genetically modified nonhuman animals as *candidates* for the surgery and claims the *resultant* transgenic, cloned or genetically modified nonhuman animal emerging from the surgery. Such candidate extant transgenic, cloned or genetically modified nonhuman animals may, for example, be purchased from suitable vendors thereof. Accordingly, Applicant respectfully submits that Applicant need not teach the making of transgenic, cloned or

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genetically modified nonhuman animals to support their use as candidates for the surgeries that create the claimed animal model.

In light of the foregoing discussion, Applicant respectfully submits that Claim 1 satisfies the requirements of 35 U.S.C. 112, second paragraph and is in condition for allowance.

Applicant submits that since Claims 2, 3 and 5-7 depend from Claim 1, Claims 2, 3 and 5-7 are likewise in condition for allowance.

REMARKS RESPONSIVE TO 35 U.S.C. § 112 SECOND PARAGRAPH REJECTIONS

The Examiner rejected Claim 1:

- [i] because it uses the word "substantially" to describe "normal (line 4)" and "permanent (line 8)", stating that the word "substantially" is a relative term and depends on the perspective of the skilled artisan [Office Action: Page 15; 3rd Paragraph]; and,
- [ii] because it uses the word "normal (line 4)", stating that "normal" is a relative term and no parameters have been provided by the specification teaching what encompasses a "normal" gastrointestinal system [Office Action: Page 15; 4th Paragraph]; and,
- [iii] because it uses the phrase "said surgical modification (line 5)", stating that there is no antecedent basis for "surgical modification" [Office Action: Page 15; 5th Paragraph]; and,
- [iv] because it uses the phrase "said gastrointestinal tract (line 6)", stating that there is no antecedent basis for "tract." [Office Action: Page 15; 6th Paragraph]

Initially, applicant respectfully directs the Examiner to MPEP § 2173.05(b) on Relative Terminology, which states, in relevant part, that:

“The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. ... Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” [citations omitted]

Thereafter, in speaking to the term “substantially,” MPEP § 2173.05(b)D states that:

“The term ‘substantially’ is often used in conjunction with another term to describe a particular characteristic of the claimed invention. It is a broad term. ... In re Mattison, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation “which produces substantially equal E and H plane illumination patterns” was definite because one of ordinary skill in the art would know what was meant by “substantially equal.” Andrew Corp. v. Gabriel Electronics, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).”

Applicant respectfully contends that the use of the term “substantially” as a modifier of the term “normal” complies with the letter and the spirit of MPEP §§ 2173.05(b), 2173.05(b)D as it is intended to relax the selection criterion of a “normal gastrointestinal tract” from the requirement that the gastrointestinal tract be “perfectly” or “absolutely” normal from an anatomic or physiological standpoint.

As to the term “normal,” Applicant respectfully traverses the Examiner’s allegation that “no parameters have been provided by the specification teaching what encompasses a ‘normal’ gastrointestinal system.” [Office Action: Page 15; 4th Paragraph] Beginning on Page 11, at Line 20 of the Application, the specification explicitly recites the parameters that define a “normal gastrointestinal system, by stating that:

“[T]here is shown in FIG. 1 a schematic illustration of a portion of a substantially normal gastrointestinal tract **48** of an animal, beginning at the terminal esophagus **21** and extending to the mid-jejunum **49**. Normal gastrointestinal tract **48** is characterized by

several anatomical landmarks and regions. Gastroesophageal junction **26** admits food into the stomach **23**, having an apical portion **22**, called the fundus, and having a contour with a lesser curvature **24** and a greater curvature **25**. Partially digested food passes from the pylorus **28** of the stomach into the duodenum **29**, the first division of the small intestine, about 25 cm in length, and thence into the jejunum **33**, shown as extending to its approximate midpoint **49**.” (emphasis supplied)

Accordingly, for the purposes of this Application, a “normal” gastrointestinal tract of an animal is defined in the Application as having a terminal esophagus and extending to a mid-jejunum, which normal gastrointestinal tract characterized by having a gastroesophageal junction admitting food into a stomach, having a fundus, a lesser curvature, a greater curvature and a pylorus, which admits partially digested food into the duodenum, the first division of the small intestine, and thence into the jejunum.

In light of the foregoing discussion, Applicant respectfully submits that Claim 1 satisfies the requirements of 35 U.S.C. 112, second paragraph and is in condition for allowance.

Applicant submits that since Claims 2-8 depend from Claim 1, Claims 2-8 are likewise in condition for allowance.

Claim 1 additionally stands rejected under 35 U.S.C. § 112, because it uses the phrase "said surgical modification," for which the Examiner alleged there was no antecedent basis; and, because it uses the phrase "said gastrointestinal tract," for which the Examiner alleged there is also no antecedent basis. In accordance with this rejection, Claim 1 has been amended to comply with the examiner's objections and is now believed to conform to Section 112 Second Paragraph.

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REMARKS RESPONSIVE TO 35 U.S.C. § 102(a) REJECTIONS

The Examiner rejected Claims 1, 2, 4, 5, 7, 8 under 35 U.S.C. § 102(a) as being allegedly anticipated by Xu, et al., 2002, Journal of Surgical Research, 107: 56-63 (hereinafter “Xu, et al.”).

Applicants traverse the 35 U.S.C. § 102(a) rejection as follows.

MPEP § 2132.01 provides that where an applicant is one of the co-authors of a publication cited against his or her application, the publication may be removed as a reference by the filing of a specific affidavit or declaration under 37 CFR § 1.132 establishing that the article is describing applicant's own work. An affidavit or declaration by applicant alone indicating that applicant is the sole inventor and that the others were merely working under his direction is sufficient to remove the publication as a reference under 35 U.S.C. § 102(a); *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982).

In accordance with MPEP § 2132.01, and in consideration of Applicant's affidavit under 37 CFR § 1.132, filed herewith, Applicant respectfully submits that Xu, et al., do not anticipate the present Application.

In light of Applicant's affidavit under 37 CFR § 1.132, filed herewith, and the foregoing discussion, Applicant respectfully submits that Claims 1, 2, 4, 5, 7, 8 satisfy the requirements of 35 U.S.C. § 102(a), and are in condition for allowance.

REMARKS RESPONSIVE TO 35 U.S.C. § 102(b) REJECTIONS

The Examiner rejected Claims 1, 2, 4, 5, 7, 8 under 35 U.S.C. § 102(b) as being allegedly
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anticipated by Young et al., 1984, The American Journal of Clinical Nutrition, 40. 293-302 (hereinafter “Young, et al.”).

Applicant respectfully traverses the Examiner’s rejection because Young, et al. does not teach each and every feature of Applicant’s Claims 1, 2, 4, 5, 7, and 8.

Independent Claim 1, as presently amended teaches:

“1. (Currently Amended) A surgically modified nonhuman mammalian animal model comprising a nonhuman mammalian animal having a preoperative weight, *a preoperative endogenous ghrelin production* and a preoperative substantially normal animal gastrointestinal tract that has undergone a surgical modification, wherein said surgical modification reduces the volume of a stomach of said gastrointestinal tract and reduces the digestive area of said gastrointestinal tract; and, wherein postoperatively, said surgically modified nonhuman mammalian animal exhibits a substantially permanent reduction of said preoperative weight and a *substantially permanent reduction in said preoperative endogenous ghrelin production*. [italics supplied]”

With respect to Claim 1, Young, et al. do not teach, inter alia, a substantially permanent reduction in preoperative endogenous ghrelin production. Thus, Claim 1 is not anticipated by Young, et al. The Examiner, however, stated that “[w]hile Young et al. do not specifically teach that ghrelin levels are reduced in post-operative rats, the surgically altered animals in the instant invention have been anticipated for reasons of inherency.”

Young, et al, teach that “[i]n group I (GPI) animals stainless steel staples ... were placed just distal to the white ridge in the muscular portion of the true stomach. (p.294, col.1, 3rd full paragraph under the heading “Methods”). Young et al., teach that this stapling was tantamount

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to a complete gastrectomy - - eliminating the stomach as an organ of digestion - - by repeatedly stating that:

“[N]o food entered the stomach of GI rats ...”
(p.299, col. 2, 2nd full paragraph);

“Gastric stapled animals received no food into the true stomach.”
(p.299, col. 2, 2nd full paragraph);

“[GI] animals received no food into their stomach.”
(p.299, col. 2, 2nd full paragraph);

and that:

“[T]he stapled animals received no luminal nutrients [from the stomach] in the duodenum.”
(p. 300, col. 1, 1st full paragraph);

“The stapled animals in GI had no luminal nutrient [from the stomach] exposure in the duodenum.”

(p. 300, col. 2, 1st full paragraph).

Applicant’s specification clearly states that:

“In this exemplary non-limiting, specific method using the exemplary animal model, the messenger RNA (“mRNA”) coding for the synthesis of the protein ghrelin in the stomach was also measured. Ghrelin is a peptide produced primarily by the oxyntic cells of the gastric fundus, and it is the primary appetite stimulatory peptide acting on the orexigenic neuropeptide Y in the hypothalamus. It was noted that ghrelin mRNA expression in the stomach decreased, as did the concentration of serum ghrelin in Zucker rats having undergone the Roux-en-Y gastroplasty. This decreased the stimulatory signal sent to the brain to eat.” [Application: p.27, lines 3-8]

Since Young, et al. teach the elimination of the stomach as an organ of digestion, and since a functioning stomach is the very source of ghrelin production, a reduction in ghrelin levels in post-operative rats could not possibly be inherent in Young, et al. At the very least, the feature of claim 1 - - “a substantially permanent reduction in ... preoperative endogenous ghrelin production” - - is not *necessarily* present in the teaching of Young, et al. Consequently, the inherency of this feature in Young, et al. is not established. A result that might have occurred under certain conditions is not good enough to deny patentability.

In light of the foregoing discussion, independent Claim 1 is in condition for allowance under 35 U.S.C § 102(b). Claims 2, 4, 5, 7, 8, depending therefrom, are also in condition for allowance. Applicant respectfully request that the Examiner’s anticipation rejection of Claims 1, 2, 4, 5, 7, 8 under 35 U.S.C. § 102(b) be withdrawn.

REMARKS RESPONSIVE TO 35 U.S.C. § 103(a) REJECTIONS

The Examiner rejected Claims 1-3, 5, 7 under 35 U. S C. § 103(a) as being unpatentable over Benedetti, et al., 2000, Journal of the American College of Nutrition, 191: 270-274, (hereinafter “Benedetti, et al.”), in view of Inui, 2000, Pharmacological Review, 52: 35-61, (hereinafter “Inui”).

The Examiner noted that Benedetti, et al. teach that “biliopancreatic bypass with a long Roux-en-Y reconstruction was performed on obese [human] patients” [Office Action: Page 19; 2nd Paragraph] with a number of surgical advantages to the patient, such as, for example, “1) selective malabsorption of fat, 2) an intact enterohepatic bile salt circulation, and 3) the absence of a long excluded intestinal loop.” [Office Action: Page 19; 2nd Paragraph] The Examiner

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further noted that Benedetti, et al. teach that “30 months following surgery, patients ... lost weight, ... insulin resistance had reversed and that glucose and insulin levels were within normal range.” [Office Action: Page 19; 2nd Paragraph]

The Examiner stated that “Inui teaches that transgenic animals have provided ways to modify the complex [biochemical] pathways involved in regulating body weight and to more easily assess the role of individual components in these pathways. Once transgenic animal models are created, they are useful in assessing the efficacy or determining the mode of action of new therapeutic agents.” [Office Action: Page 19; 3rd Paragraph (emphasis supplied)]

From the foregoing, the Examiner concluded that it would have been prima facie obvious to one having ordinary skill in the art at the time the invention was made to use a non-genetically modified non-human obese mammal and a genetically modified non-human mammalian models of obesity, in the surgical method taught by Benedetti et al.

The Examiner additionally concluded that one having ordinary skill in the art “would have been motivated to use these non-genetically modified non-human obese mammals and a genetically modified non-human mammalian models of obesity, in order to obtain non-genetically modified nonhuman obese mammal and a genetically modified non-human mammalian models of obesity that lose weight and can be used to monitor biological effects that occur during weight loss. [Office Action: Page 20; 2nd Paragraph]

From the foregoing, the Examiner concluded that the claimed invention as a whole was clearly prima facie obvious.

Initially, the Examiner's cited references, individually or when combined, do not teach or suggest each and every feature of (presently amended) independent Claim 1. For example, nowhere does Benedetti, et al. or Inui teach a "substantially permanent reduction in ... preoperative endogenous ghrelin production," as in Applicant's (presently amended) independent Claim 1.

Even if, *arguendo*, the Examiner's cited references, individually or when combined, did teach or suggest each and every feature of (presently amended) independent Claim 1, the Examiner has not presented a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references, as required by MPEP § 2142.

Moreover, the Examiner has not identified a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings, as required by MPEP § 2143. Nor has the Examiner made a finding as to the specific understanding or principle within the knowledge of the skilled artisan that would have provided the motivation combine the references.

Indeed, Inui concludes that:

"Advanced gene-targeting strategies aimed at specific alterations (on and off) of a gene product at desired tissues and times are a recent elaboration which can obviously lead to a better understanding of the role the gene product plays in body weight regulation. In conjunction with conventional pharmacological manipulations, these powerful genetic tools will provide more sophisticated animal models and unprecedented in-sights into the underlying mechanisms of obesity, leading to new treatments."

[Inui at 55 (emphasis supplied)]

Clearly, the teaching of Inui is directed to “gene-targeted strategies aimed at specific alterations (on and off) of a gene product;” and, the only suggestion of Inui is that such gene-targeting strategies when combined with “conventional pharmacologic manipulations,” will provide more sophisticated animal models. Nothing could be further from the “conventional pharmacologic manipulations” suggested by Inui than the performance of the bariatric surgeries on nonhuman mammalian animals as claimed in independent Claim 1. There is simply neither motivation nor suggestion to combine “gene-targeted strategies” with bariatric surgeries in Inui.

The Examiner’s quotation from Inui that “[o]nce created, transgenic animal models are useful to assess the efficacy or determine the mode of action of new therapeutic agents,” is, by its very language, precisely limited the use of transgenic animals in the testing of therapeutic agents. Nothing in this quotation remotely suggests a surgically modified nonhuman mammalian animal that exhibits, inter alia, a substantially permanent reduction in a preoperative endogenous ghrelin production, as claimed in independent Claim 1.

Turning next to Benedetti, et al., nothing in that reference remotely suggests or motivates the performance of biliopancreatic diversion in nonhuman mammalian animals, as claimed in independent Claim 1, as opposed to morbidly obese humans. Moreover, nothing in Benedetti, et al., remotely suggests or motivates the combination of biliopancreatic diversion in nonhuman mammalian animals with the gene-targeted strategies taught by Inui.

In light of the foregoing discussion, independent Claim 1 is in condition for allowance under 35 U.S.C § 102(b). Claims 2, 3 and 5-7, depending therefrom, are also in condition for allowance. Applicant respectfully request that the Examiner’s obviousness rejection of Claims 1-3 and 5-7 under 35 U.S.C. § 103(a) be withdrawn.

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REQUEST FOR EXTENSION OF TIME

The Applicant herewith petitions the Commissioner of Patents and Trademarks to extend the time for reply to the First Office Action mailed March 14, 2005 for one month. Submitted herewith is a check for \$55.00 to cover the cost of the extension.

If any additional fees, including additional extension of time fees, are due as a result of this response, please charge Deposit Account No. 503033.

This submission of a fee and authorization to charge Deposit Account No. 503033 is intended to act as a constructive petition for an additional extension of time, should an additional extension of time be needed as a result of this Response. Please credit any overpayment to the above referenced deposit account.

CONCLUSION

In summary, as presently amended and based on the preceding remarks, Applicant respectfully believes that independent claim 1 and all claims dependent therefrom meet the acceptance criteria for allowance and therefore, upon the Examiner's reconsideration, requests allowance.

The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case. If the Examiner believes that anything further would in any way advance the prosecution of this case or be helpful to place the application in condition for allowance, the Examiner is invited to contact applicant's attorney at the telephone number listed below.

Respectfully submitted,


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